

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

This matter is before the court on plaintiffs' MOTION FOR LEAVE TO FILE AMENDED COMPLAINT [51]. The effect of the amendments would be to add allegations of willful conduct by the defendant toward each of the plaintiffs. Defendant objects because the motion was filed after the June 19, 2006 deadline for amending the pleadings, and defendant has already deposed the plaintiffs. Plaintiffs explain that they were unable to file a timely motion because they did not receive discovery responses until after June 19.

Fed. R. Civ. P. 15(a) provides that leave to amend a pleading "shall be freely given when justice so requires." "Unless there is a good reason for denial, 'such as undue delay, bad faith, or prejudice to the non-moving party, or futility of the amendment, leave to amend should be granted.'" *Marion v. Rehabworks, Inc.*, 206 F.R.D. 643, 645 (E.D. Mo. 2001) (quoting *Brown v. Wallace*, 957 F.2d 564, 566 (8th Cir. 1992)). In this instance, any prejudice to the defendant can be avoided by allowing defendant to reconvene the plaintiffs' depositions.

I find that the motion should be granted; however, the defendant will be allowed to reconvene the plaintiffs' depositions for inquiry regarding the new issues raised in the Amended Complaint.

IT IS ORDERED:

1. Plaintiffs' MOTION FOR LEAVE TO FILE AMENDED COMPLAINT [51] is granted. Plaintiffs are given until and including **August 30, 2006** to serve the Amended Complaint. Defendant shall respond within the time allowed by Fed. R. Civ. P. 15(a).
2. Defendant is hereby given leave to reconvene the plaintiffs' depositions for inquiry regarding the new issues raised in the Amended Complaint.

DATED August 22, 2006.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**